RK

G R.S IX-5]

Previous references. 1023-M (Mercara

File No. 211/23
Serial Nos. 1-4

Later references.
Mercy 211-23-39-42
219-27-1-2
54-32-16-18

GENERAL AND REVENUE SECRETARIAT

Serial Nos. 1 4.

Part B for Acquisition

SUBJECT

Compensation in respect of acquisition of certain lands in Inam Nilvandra village endowed to the Dharmasagar Somesvara temple at Mangalore

M: No 207 / Merc 211-23-4 of 26.8.23
To the Secy to the Hon'ble the President in Coun
Requests that accepts proposals may be
furnished and a note passed to the
Revenue Dept for a fresh award passed after
hearing the parties in the case

RA
21.8.23

G. R S. 11] 1912 3

GENERAL AND REVENUE SECRETARIAT.

(Inwz)

NOTES.

File No 211 1923

FILE HEADING.

Compensation in respect of the acquisition by C & M Station authorities, of the lands in viam Neelasandra Village endowed to Sri Dharmarayer Swamy temple at Ulsoorpet, Bangalore.

From

The Inspector Commissioner,

C. No. 340 Dated 8-2-1924 Received 11-2-1924

Diary No.	Enclos	Spare Copies	Serial No.
969	12		1

BRIEF ABSTRACT OF LETTER.

Requests early orders of Govt in the matter.

NOTES AND ORDERS.

It is reported that in all 23-3 of lands in viam Neelasandra Village has been acquired for the construction of model houses for housing the poor In the matter of acquis

NOTES—First Sheet.

G. R. S. III-2.

General and Revenue Secretariat.

File No. 2[illegible] of 19[illegible]

Serial No.

The C & M Station authorities have given compensation at Rs 500/ per acre for dry and Rs 600/ for wet to the tenants of the temple lands, and the Muz Comr points out that the land being Devadayam, this amount ought to have been paid to the institution. The claim of the temple is said to have been reserved for consideration only in connection with loss of revenue. The Muz Comr points out various irregularities in the acqn proceedings, and suggests that after taking copies of orders passed by C & M. Station authorities if need be, steps will have to be taken to have the matter refd. to civil courts in accordance with Rules. The Muz. Comr requests that the C & M Station authorities may be moved to go into the matter and dispose of the same in accordance with Rules.

NOTE—Contn. sheet.

G. R. S. III-2

General and Revenue Secretariat.

File No. 211 of 19 ..

Serial No.

The Inv. Comr. further reports that the Dy. Comr was asked by the Collector to intimate the amount of Compensation payable to the Viramdan temple for loss of revenue, and that after some correspondence, the Dy. Comr ~~replied~~ claimed a total Compensation of Rs 25,884-15-1, which is said to have been reserved for ~~Compensation~~ consideration. Among the several items, a special rate at Rs 1000/ per acre is claimed by the Dy-Comr. In para 4 of his letter, the Inv. Comr states that this item does not appear to be correct and not to the temple-

Submitted for orders.

AD
13/11/24

NOTE—Contn. sheet.

R. V. O

G. R. S. III-2)

General and Revenue Secretariat.

File No. 211 of 1923

Serial No.

The points that call for attention in this case are :-

1) Irregularities in the ~~of~~ acquisition proc.-, particularly want of timely intimation to the Mysore Govt. officers in the matter

2) Payment of compensation to the tenants, not ~~&~~ entitled to the same; and proposal to pay compensation to the Dramidas, (the temple) only for loss of revenue.

3) Moving the C & M authorities in the matter of ~~award~~ award of compensation to the temple, according to the Rules; failing which to have recourse to Civil Courts in the matter.

4) Whether the claim for special fine of Rs 1000/- per acre, if satisfied should go to Govt as proposed by the M.e. or to temple.

Subd for orders.

~~SD~~ 14.2.24 ~~I applied a draft with the fine~~

~~1). It would appear, from a perusal of the entire record, that there was no records to read for the Asst Comr to make a reference at this stage~~ The facts are as follows.

NOTE—Contn. sheet.

G. R. S. III-2

General and Revenue Secretariat.

File No. 211 of 19 22

Serial No.

Nerkundram village, in the presents of the C. & M. Station, is a Sarvamanya Inam to the temple of Sri Dharmaraja Swami in Ramapuram on City. The C & M Station authorities have acquired an extent of 2 3 ac 39 cents of the village on behalf of the Municipality and a Compensation of Rs 500 per ac for dry lands & Rs 600 per ac on wet lands has been paid to the tenants & the lands taken possession, reserving the Settlement of the claims of the Inamdar temple, which is still undecided. A total amount of Rs 25884-15-0 has been claimed by the Dy Collr as follows:-

(1) Special fine under Sec 63 (3) of A R Code	Rs 23750-0-0
(2) Capitalised value of Land Revenue (25 yrs purchase)	Rs 1535-15-0
(3) Statutory allowance of 15% on item no 2	Rs 220-8-0
(4) Rent in arrears on the lands in question	Rs 373-8-0
Total	Rs 25884-15-0

The Collector has not yet passed any order in this connection.

2) The Muz Commr raises the following points

(a) The Collector C & M Station was

NOTE—Contn. sheet.

G. R S. III-2]

General and Revenue Secretariat.

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Serial No

wrong in not writing what the Dy Com^r ~~an~~ between the temple by passing the award in favour of the tenants, and in passing a partial award, reserving the claims of the Inamdar (Vide para 4 of his letter)

(b) That the Compensation shall have gone to the temple instead of to the ryots. As said by the Dy Com^r (Here there is a misconstruction of the Dy Com^r's letter & order, which never ~~says~~ claims the compensation lands paid to the tenants).

(c) That steps will have to be taken to go to civil Courts as regards (b) above.

(d) that C & M authority may be addressed to dispose of this Govt in accordance to rule

(e) That the special fine of Rs 1000 per acre must go to Govt.

As reg (a), the claim of the temple is kept open & not the ~~ryots~~ tenants, ~~though the~~ if any, has not materials placed before the temple, so far as the tenants have not been given anything the temple cannot be.

(b) is a misconstruction of the Dy Com^r's letter as already said the award of the value of the land to the tenants is correct, the tenants are trustees for the temple being entitled to the income claimed by the Dy Com^r

NOTE—Contn. sheet.

Serial No.

N.

A. As regards (a), the Collector says in para 2 of his letter dated 17th July 1923 that notice under sec 9 of Act I of 1894 was duly published on the land. But it says that under sub clause (4) of the section quoted, read with sec 3(b), a notice should have been sent to the Dy Com^r or Amildar on behalf of the temple, in addition to service on the land. There is some irregularity but unless the irregularity has materially prejudiced the interests of the temple there would be no use in quashing it out. The claim of the temple for compensation for rents due to the temple is still reserved, and it is only if we could have claimed any portion of the compensation that has been paid to the tenants that we need point out the irregularity

~~As regards the compensation for the~~

As regards (b), the Asst Com^r contends the compensation for lands must go to the temple. The Dy Com^r, however has not claimed it. The decision of this question depends upon whether the tenants are tenants at will or Kadim tenants. The village is administered by the Mysore Govt-

NOTE—Contn. sheet.

G. R. S. III-2]

General and Revenue Secretariat. | File No. 211 of 1925

Serial No.

H W

on behalf of the temple, and Mysore Settlement seems to have been introduced into the village (vide para 4 (ii) of Dy Com's letter Mm Collection dated 21st Sept 1923) Under Sec 84 of the L.R. Code the term 'Kadim tenant' includes 'a tenant holding alienated land, and paying to the superior holder of such land, by way of land revenue a rent in money or in kind assessed at rates ~~of land revenue assessment~~ . . . . . fixed by a Survey Settlement ~~the tenant shall seem to be entitled~~ A Kadim tenant' has in all ~~his~~ rights of an occupant of an alienated land, the temple does not seem to be entitled to any portion of the compensation for the land in this case. The temple does not seem to have been prejudicially affected by the action of the Collection in not ~~the~~ duly issuing notice beforehand. There seems to be no case for approaching the Civil Court as proposed by the Mysore Govt.

The next point for consideration is whether the Diamond temple is entitled to the special fine of Rs 1000 per acre under Sec 63 of the Land Rev. Code. The question

NOTE—Contn. sheet.

G. R. S. III-2,

General and Revenue Secretariat.

File No. 21 of 19 22

Serial No

has been well discussed in the Inam Commission Report. It will be seen from paras 11 and 16 of the Report that the Inamdar, or the Govt. managing an Inam village is helpless in the matter and the 63 & 64 of L.R. Code are not applicable to Inam villages. Whether the temple, as claimed by the Devr, or the Govt. as claimed by the Muz Devr, seems to be entitled to the fine.

The other items of compensation claimed by the Devr seem to be all reasonable and may be approved.

If approved Muz Devr may be replaced accordingly.

6/3/24

Rev. Secy.) The above note has been drawn up by the Asst Secy after discussing the subject with me. The question of notice to Govt as the manager of the institution was considered and an opportunity given to them to claim to amend.

Dewan)

Agreed.

S.

Agreed. We should now call for the Muz Devr's claim and then dispose of the whole matter finally.

NOTE—Contn. sheet.

Yes, Sharbutts 2nd Asst.

Agreed

12/3 M.R.

G. R. S. III-2]

General and Revenue Secretariat.

File No. 21 of 1924

Serial No.

Dft letter on the lines indicated by The Asst Secretary, is submitted.

AL
13/3/1924

JH
13/3/24

for appl.
13 3 24.

Rev. dept
Dept

Dept as revised for orders
19/3

DEPUTY'S OFFICE
17 MAR. 1924
No. 671B

Issue
19/3
1/19 3 24.

Issue Resubmit.
19.3.24.

2. To the Residency no Pol 893 of 22-3-24 Requests that the claim of the temple for compensation lands acq? may be investigated &c.

File putup as desired.

BG
24.3.24 — May this file be submitted to the Rev Member for perusal, as the subject matter pertains to a Revenue dept.

630.
25.3.24.

Rev dept
11/Secretary

24.3.24.
25/3

Secy
Dept
25/3/24
25 3 24.

26.3.24.

NOTE—Contn. sheet.

SMS

G R. S. III.2]

Muzrai Secretariat | Muz. File No. 211 of 192 3

Serial No. 3.

From, The Secretary to The Hon'ble The Resident in Mysore,

no. Pol. 1434 dd 14.5.1924
no. 3934-131903.

Submits further report called for in Sl. 2.

The above communication goes fully into the facts of the case.

As regards the points raised in Sl. 2, it is mentioned that The Hon'ble The Resident considers that the omission to issue a special notice to the Inamdar provides no sufficient cause to render the proceedings inoperative.

As regards the claim to compensation it is stated

NOTE—Contn. sheet

Wt. 0561—3PD—3750—9 8 22

Serial No.

that the Laws and Regulation applicable to the Station do not prescribe a penalty for the conversion of the land in question for town improvement, in consequence of which no special fine can be claimed, and that the arrears of rent may be recovered from the occupants, and the further that the claims to capitalised Value of L.R. at 25 times the assessment and also the statutory allowance for compulsory acquisition are admitted. It is further stated that the raiyats are kadim tenants who have applied

Serial No.

a heritable and transferable right, and the Compensation has been rightly paid to them. The Secretary requests to know whether Mysore Govt. has further remarks to make.

Submitted for orders.

BY 15.5.24 BL 15.5.24

Pleas put up Bombay Act of 1865.

15.5.24. 19.5.24

The facts of this case are contained in page 5 supra. As per orders of the Dewan, the Residency was addressed in this office letter dated 22.3.24 (Pl 2) (1) drawing attention to the irregular procedure adopted by the Collector in the issue notice to the Sri Ramadas Temple (2) claiming Compensation for occupancy rights to the Ramadas

WD 0361-GPR-3750—1-8-22

G R S. III-2]

General and Revenue Secretariat.

File No. 211 of 19-B

Serial No

(B) Audit claim is therefore for Compensation amounting to Rs 2465-2-4-1 as follows

(a) Special Zone at Rs 1000 per ac 2268-5-0

(b) Capitalized value of land Revenue (25 times ass) 1488-15-0

(c) Statutory allowance at 15% on (b) 223-0-0

(d) Rent in arrears from tenant 248-5-1

2465-2-4-1

Point 1. is replied to in para 2 of the Residency letter. It is stated that the omission provides no sufficient cause to render the proceedings inoperative. Refee is invited to page 7 of the note. There seems to be no alternative but to accept the decision of the Residency.

Point 2. is replied to in para 4 of the Residency letter. ~~Inquiry has to be accepted~~ It is stated that Bombay Act I of 1865 is applicable to Nilasandra village It is not clear how the Bombay Act is applicable to this village & Even if it is, Sec 1-36 thereof, to which refee is made have been repealed by Act V of 1879 (Refee is put up) Any how, a State

NOTE—Contn. sheet

Serial No

in page 7 of 8 supra, the tenants seem to be Kadim tenants & the Enquiries to date compensation occupancy rights. The tenants does not seem to be entitled to this clear. The Resolution reply has to be accepted.

Point 3. is replied to in para 3 of the letter. Of the four items claimed (b) & (c) are admitted. As regards (a) it is stated that under Sec XXV of Bombay I of 1865, no penalty is leviable in the conversion of agricultural land for town improvement. But — as stated above it is not clear how the Bombay Act is in force in the village, how this Section is made applicable, though it is repealed in Bombay by the Act of 1879. However, the Resolution will be addressed again in this matter. As regards (d) arrear due from tenants, they say that it should be recovered from the tenants themselves. But it seems to be an omission on the part of the Acquisition officer not to have Enquired if any thing was due to the Inamdar, & to have put

NOTE—Contn sheet

G. R. S. III-2]

General and Revenue Secretariat.

File No. 211 of 19 23

Serial No.

such petition for compensation as may
due to the Inamdar. The Resident may
L. & L. Secy. may perhaps be consulted
on this matter

The points for orders are.

(1) whether the Resident's letter may be
accepted with regard to the non-service
tenure noted on the Inamdar's claim
that Inamdar's temple for compensation
for occupancy rights over the lands.

(2) Whether the L. & L. Secy may be
consulted with regard to the liability of
the Resident to pay up the arrears
due from the tenants to the Inamdar

(3) Whether a further reference be
made to the Resident about (2) above
and the applicability of the Bombay
Act I of 1865 & Nilasandmahals

Rev. Secy. 26.5.24

Please obtain a copy of
Act I of 1865 — also of Act I of
1894 referred to in the note of
Leg

28/5

Home Legislative
Branch)

The Govt. Home
Dept. Branch).

Copies of Bombay Act No I of 1865 and Act No I of 1894 are submitted. (A) (B)

29.5.24 29/5/24

NOTE—Contn sheet.

G. R. S III-2]

General and Revenue Secretariat | File No. 24 of 1926

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What the Requirements is the full text of the Act of 1865. Can you not procure?

31 5.26.

I enquired in the chief Court also. The full text of the Act is not available there.

Submitted.

AL 4.6.26

Be orders

4.6.26.

Rec'd.

Court fee set at Rs a Rs duty - stamps with Regd

Speech from

6.6.26.

A copy of Bombay Act I of 1865 is submitted.

AL 10.6.26. Rules under Sec 35 are not to be found in the Volumes used. Please ask a D.O. asking for its correct

10.6.26

Act. submitted

AL 12-6-26

Issue

12.6.26.

NOTE—Contn sheet

G. R. S. III-2]

General and Revenue Secretariat.

Mur File No. 211 of 1923

Serial No.

To. A. M. Boris Esqr., Registrar Office of the Hon'ble the Resident in Mysore

D.O.No 1811 dy 14.6.24.

Requests him to send for reference a copy of the Rules under Section 35 of Bombay [illegible]

From the Registrary, Office of the Hon'ble the Resident in Mysore, D.O.No. 5226/61-J.24. dy. states that though a careful search was made, it has not been possible to find the rules under Section 35 of Bombay Act I of 1865.

Yrs. pn. enclosed.

MM.

4.7.24.

5 Bombay Act I of 1865 is Carmine in pages 153-162 of the Vol. pencilled. The Act of 1894 is also pencilled. What is quoted by the Residency as regards the levy of fine for appropriation of land for non-agricultural purposes are Rules under Sec 35 of Act of 1865 which the Residency have replied to say that they have sent for a copy. It is strange that the Residency Office have not got a copy

NOTE—Contn sheet.

G. R. S. III-21

General and Revenue Secretariat.

File No 21 of 1923

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of the Rules which they suggest amendment. They may perhaps be asked to state whether Act 2 of 1863 is in force, ~~state~~ although Sec 1 & 33 are repealed by Bombay Act of 1879 & it may also be stated whether they are now ready to send a copy of the rules under which they have taken action for report, a final reply cannot be given

Sec-Secy 8.7.24

Flag 25

The Residency letter in reply to our letter No. 893 dated 22nd March 1924 is for perusal. As regard the non-service of the notice of acquisition on the Deputy Commissioner as representing the management of the temple, the explanation offered in para 2 of the reply cannot be accepted. Under section 9 Clause (i) of the Land Acquisition Regulation of British India which is the same as the section in our Land Acquisition Regulation, the Collector should serve a notice on all such persons known or believed to be interested in the land to be acquired. The issue of such special notices is compulsory and the mere issue of a notice under Sec.9 clause (i) on the land will not be sufficient. By non-receipt of the notice the Deputy Commissioner was denied an opportunity of putting in the claims of the temple. In the Residency reply it is

NOTE—Contn. sheet.

Serial No.

observed that the Resident considers that the omission to issue a special notice to the Inamdars provides no sufficient cause to render the proceedings inoperative. On this point kind reference is invited to the commentary on sub-Sec.3 on page 59 of Donogh's Land Acquisition Compensation. In the present case the Civil and Military Station authorities knew that the land was inam land and obviously it was their duty to have served a notice on the Inamdar. In spite of this no notice has been served. This would seem to be a factor which would invalidate the whole proceedings. At the same time it is for consideration whether any purpose will be served by pressing this point in the face of the Residency's admission of their mistake.

As regards the claim that was made on behalf of the temple, the Residency have accepted the claim on account of the capitalised value of the land revenue and the statutory allowance for compulsory acquisition amounting in all Rs.1698 15-

As regards the claim on account of the arrears of rent outstanding against the tenants if the notice of acquisition had been given to the Deputy Commissioner in time he would also have been able to put in his claim at the time of the

Serial No.

acquisition proceedings and get the arrears adjusted out of the compensation amount. As the Collector of the Civil and Military Station did not give the notice it is a matter for consideration whether the Residency should not be requested to pay this amount to the temple, themselves recovering the amount from the tenants to whom the compensation has been paid.

As regards the claim for the special fine of Rs.1,000 per acre on 22 acres and 25 guntas, for the conversion of land to non-agricultural purpose the Residency point out that Section 63 of the Mysore Land Revenue Code has no application for Nillasandra which is situated in the Civil and Military Station. The Mysore Land Revenue Code came into force only on 1st April 1889. The old enactment that applied to Mysore previously and which was in force in the Civil & Military Station before the Rendition was Bombay Act (i) of 1865. The levy of conversion fine in the Civil and Military Station will have to be regulated by that enactment. Section 35 of that Act which relates to the levy of conversion fine applies only to Government lands and not to inam lands as those under reference. As regards inam lands the Government have resigned their right to land revenue to the inamdar subject to

Hy. 21

Serial No.

the payment of a jodi or without any jodi at all according to the nature of the inam. In no case is Government concerned with the uses to which the lands in the inam holding or village may be put whether they are used as agricultural lands or whether they are used as building lands. The question whether inamdars in the villages within the Mysore State are entitled to levy conversion fine is a subject of considerable amount of discussion in the Inam Commission Report. Vide - para || of the Report. The right of the Inamdar to this item is recognised, but at present the remedy is by means of a Civil suit. The Resident further points out that the fine of Rs.1,000 can levied only in the areas mentioned in the schedu attached to the Mysore Government Notification dated 27th December 1904 printed at page 21 of t Mysore Land Revenue Rules, and which has no appl cation whatever to the villages situated within the Civil and Military Station. It is further stated that under the Rules made in the Sec.65 o Bombay Act of 1865 provision is made for fin ranging from Rs.25 to Rs.100 on agricultural an for purposes other than agriculture and that the do not prescribe a penalty for conversion of suc lands for town improvement by the Government or Municipality. It has not been possible so get

Serial No

copy of the Rules passed under sec. 31 of Sortaj Act (1) of 65 so as to verify the statement made in the Residency letter. It has been ascertained from the President's Office that a copy of the Rules is not available there. The main point for consideration is whether we can sustain a claim for payment on this account. So far as Government is concerned they cannot possibly lay any claim for payment on this account as far as they are concerned, they have transferred their rights in the village to the inamdar.

As regards the Inamdar-temple they would seem to be entitled to payment on this account. ~~The Inamdars interest in the land has been transferred~~ The rights of the Kadim tenants to their holding are similar to those of [illegible] occupants of unalienated land, which do not extend to the use of the lands for purposes unconnected with agriculture. If such conversion is allowed the benefit of such conversion has to go to the Inamdar. In the present case the [illegible] are entitled to [illegible] agricultural [illegible] the value of [illegible] have been paid accordingly [illegible] have been brought up for [illegible] stands to reason that they should be paid for [illegible] building lands according to [illegible] rates. The difference between the value of the lands as

NOTE—Contn sheet

G. R. S. III-2]

WD 2810—GPE—10,000—31 5-24

General and Revenue Secretariat | File No. | of 19 ?5

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agricultural lands and the sale of [illegible] building land accruing to the benefit of the Inamdar. If this view is accepted a reference may perhaps be made to the Legislative Department on that point. Perhaps on this aspect of the question the Local and Legislature Secretary may also be consulted.

Reply

Draft

L & L Secretary's opinion on calculations enclosed

L. R. Sec will [illegible]

Reply

my opinion is enclosed herewith

Draft letter to the R[illegible] in accordance with opinion may be perused

Lobbs of reference Sat[illegible].

(1) Land acquisition & Compensation by W. R. Donogh.

(2) Mr Inam Commission Report 1919-20.

(3) Mr Savary Manual on Report (886).

NOTE—Contn. sheet

Opinion of Lt. Col T
18-7-24

Secretary to Govt.,
Revenue Department.

O P I N I O N.

In re Acquisition Proceedings of Collector, Etah Station (Nilgaun Railway).

It is admitted that no special notice as required under Section 9(3) of the Land Acquisition Act 1894 was given to the Inamdar. It is also admitted that the Collector knew that the village was an Inam - - - village and there was an Inamdar. The - - letter runs as follows:--

"I am to express regret for the omission to inform the Inamdar of the intended acquisition under Section 9(4) of the Act."

Effect of non-service of notice under Section 9(3)

2. The law on the subject is that the vesting of the land in the Government under Section 16 will take place only when there has been a substantial compliance ~~of~~ with the provisions of the Act. (30 Cal. pp.576). But when notice has not been served upon a person who is known to be interested in the property acquired, there has not been a substantial compliance ~~of~~ with the provisions of the Act and non-service in such a case would, it is vitiate the proceedings and invalidate the absolute title which the Government acquires under Section 16. It is only when a person who is interested is not known and by - - inadvertance such a person is not served with a notice, that the proceedings are not invalidated. There is another defect in the proceedings. Section 12 Cl.2 is as follows-

Effect of non-service of notice under Section 12 Cl.2

"The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made

3 In the present case no such notice was served on the Inamdar after the award was made. This is an important factor, for unde Section 18 Cl.2 the element of notice is an essential ingredient of the two alternative periods mentioned in that Section for a party within which to insist upon his right to have a reference made to the Civil Court. The conditions imposed by Section 18 must be strictly observed, for, on their observance depends the right of a party to have a reference, the power of the Collector to make one and the jurisdiction of the Court to entertain it. In this case, the failure to give notice under Section 12(2) deprived the Inamdar of his right under Section 18 to insist on a reference being made to Civil Court. The following observations are pertinent to the matter under discussion.

"Whenever jurisdiction is given to a Court by an Act of Parliament or by a Regulation in India, and such jurisdiction is only given upon certain specified terms contained in the regulation itself, it is a universal principle that these terms must be complied with, in order to create and raise the jurisdiction, for if they be not complied with the jurisdiction does not arise." (Nusserwanjee Pestonjee v Meer Mynooddeen Khan etc., (6 Moore I.A. pp.155)"

"When statutory rights of an exceptional character have been created, the conditions prescribed by the statute for the exercise of such rights must be strictly fulfilled, and if an attempt is made at a mere nominal compliance with the provisions of the statute in

the exercise of such rights, the Courts are not powerless to afford relief to a person who is aggrieved by the adoption of such a course. The object of the reference under Section 18 of the Act is to secure the judicial ascertainment of the value of the property acquired, and other matters strictly incidental thereto" (Rogunath Das v Collector of Dacca (XI Cal. L.J.pp.614-615).

Cumulative effect of non-compliance with the provisions of Sections 9 Cl.3 and 12 Cl.2

4 In the present case the effect of omission to comply with the provisions of Section 9 Cl. 3 & 4 and Section 12 Cl.2 is that the Inamdar has not been deprived of his title to the property and of his right to have the matter referred to the Court under Section 18 for the amount of compensation being fixed and to the persons to whom it is payable or the apportionment of the compensation among himself and the ryots. It is a matter of consideration doubt whether in this case the property has absoluetely vested in Government under Section 16 free from all encumbrances owing to the defects in the proceedings noticed above.

Who is to decide the question of kadim tenancy.

There is another aspect which is to be seriously considered in this case. Section 11 empowers the Collector to apportion the compensation among all the persons known to be interested in the land of whom he has information. If the persons interested in the determination of this question do not agree, the Collector may either decide the question himself under this Section or refer it to the decision of the Court under Section 30. In this case when the Inamdar has not put forward his claim, the Collector had no opportunity to decide whether the tenants were kadeem

tenants or not. In fact the Collector seems to have misunderstood the position as stated in para 2 of the letter under advertance and "believed that the Inamdar was entitled only to compensation for loss of revenue, which he would accept without objection." It is frankly admitted "that the inamdar would contest their title, (in effect) was not realised by Collector at this stage of the proceedings." Hence it is clear that he has not decided the question of kadeem tenancy after hearing both the parties. His plain duty was therefore to refer the question to Civil Court under Section 30. This has not been done. It may be observed here that the question of kadeem tenancy is an extremely intricate and complex one and requires careful investigation. The onus lies heavily on the tenants to prove it. Without due care and caution and without investigating this matter the Collector has acted arbitrarily in awarding compensation solely to the ryots without due regard to the interests of the Inamdar. As observed above, the right and title of the Inamdar are not at all interfered with or taken away by the abortive proceedings adopted by the Collector.

Claim of Inamdar

6 Regarding Inamdar's claim for compensation, these are matters which are to be pressed before the Collector when the proceedings are opened. The following claims may well be put forward on behalf of the Inamdar.

Firstly, on the ground that the amount awarded is inadequate in as much as the land is used for building purposes and the basis of valuation should be not as Agricultural land but as land fit for building purposes.

Secondly, the ryots are only occupancy tenants at will or yearly tenants and as suc they are not entitled to the full compensation awarded.

Thirdly even if they are treated as Kadeem tenants, the Inamdar's claim is not only for the rent i.e, 25 years' rent the capitalised value of the land but also for the chance of getting back the land in case of forfeiture etc., as has been done in several cases between the Zamindar and Putnidar and also for the personal services rendered etc. This may be well pressed after the proceedings are opened. It is a matter for consideration whether any admission made by the Deputy Commissioner is binding upon the Inamdar. It is an observation that has been made without due regard to facts and without any authority to bind the temple.

In conclusion, the circumstances of the case warrant us to hold that the proceedings of the Collector are invalidated by non-service of notices upon the Inamdar whose interest was known to the Collector according to his own admission, that no absolute title has been vested under Section 16 in Government by taking possession, that the right of Inamdar to ask for reference to Court under Section 18 is not taken away for want of notice under Section 12 Cl.2 and that his right to have the question of apportionment ~~adjusted~~ adjudged in a court of law still exists.

For these reasons the Residency may be moved to re-open the proceedings and issue a notice to the Inamdar as required under

Section 11 after hearing the parties and thereafter act in accordance with law.

18. July 1924

G. R. S. [II-2]

WD 2310—GPE—10,000—31 5 24

General and Revenue Secretariat | File No. 3[illegible] of 19[illegible]

Serial No.

Dft. letter submd.

AU 22.7.1924 BG 23/7/24

Fair draft as revised

24.7.24

Typed dft. submitted.

AU 25.7.24 BG 25.9.24

Dr appd

25.7.24.

Rev. submd. Please fair draft and flag with necessary alterations & to Th Dept.

[illegible]9.7

29.7.24

Fair draft submd.

BG 30.7.24

30.7.24.

Rev. submd.

Draft dr appd

7/8 I Member

I agree with the draft letter proposed by Secy Home Dept. in para 4 - para 3 - in view, however, of the comments in para 2 of the Agency Officer

NOTE—Contn. sheet

R. S. III-2]

Muzrai Secretariat | Muz. File No. of 192 .

Serial No.

Khandsari sahkari [illegible] Acquisition [illegible] Ltd
representing the Khandsari) have a right
to ask for the revision of the Acq[n] Succeeding
or for the Khandsari claims being referred to the
Civil Court for adjudication. Thus
there will be no need for us to adopt
this course so long as the Tenderers
initial (as they appear to be) to
accept our claims satisfactorily.

The claims made by us are
in respect of
i The occupancy rights of the
land
ii The fixtures for conversion of the
land for Sugarcultural purposes
iii The capitalised value of the
annuities.

With regard to i, if the we are in a
position to question the tenancy
rights of the occupants of the land, we
shall no doubt, have a good case for
proving the value of the land is in
addition to & the tenants have as
shown by the Tenderers [illegible]
the Dep[t] Cane Officer Bangalore has

NOTE—Contn. sheet

G. R. S. III 2]

Muzrai Secretariat | Muz. File No. of 192 .

Serial No.

[illegible] letter of 16th May 20 from the Collector of Chingleput stating that the holders of the lands were 'Kadaimai' tenants paying rent to the Inamdar. Further enquiry is necessary after further enquiry is received from the Inamdar to say whether his description of the tenants given in the D.C.'s letter was not correct. I do not think that we can now contend that the tenants were only occupants at will of land on which they were not entitled to receive the value of the lands.

As regards the sum of [illegible] Rs 1000 per annum claimed for the conversion of the lands for non-agricultural purposes, firstly, I do not think that the Inamdar is entitled to the amount in respect of lands in Inam villages. This amount as we have now taken recognises the claims of Inamdars to Shrotriem. As shown in the Board's letter of 8th Feb'y 24, the sum is recoverable by the Govt. from the Inamdar in respect of lands in Govt. villages. Secondly I think that in respect of lands [illegible]. Even in Govt. villages, I think recovery of the sum only in respect of lands in Govt. villages & not from lands in Inam villages. Though in the present case, as the village [illegible] included in the [illegible] Subject WD 0561 - GPB—9750—1 8 22 in the amount is Rs [illegible] Rs 1000 [illegible]

Note refer to Board's Proceedings, Commissioners Paper 19

NOTE—Contn. sheet

the Ry Dar [illegible] Govt can claim the right to levy a [illegible] for the conversion of the land ~~[illegible]~~ [illegible] to non-agricultural purpose

Next as regards the capitalised value of the loss of assessment.

The Inamdar is no doubt entitled to be recouped for the loss of revenue which he would sustain by the acqn of the land. ~~In the; [illegible]~~. The Railway have admitted this and engagement their willingness to pay the capitalised value of the revenue.

~~We have to claim the capital value of not of the assessment loss~~ — — —

~~As~~ I cannot make out from the English correspondence if ~~the~~ we are recovering from the tenants only the assessment on the lands or if the rent we recover from them is in excess of the assessment. In case it exceeds the assessment we have to claim the capitalised value of the rent & not the assessment alone. In addition we shall also be perhaps justified in claiming on behalf of the Inamdar some addl compensation for the ~~prospective benefits that may be~~ deprivation of any service which the occupants of the lands might have been rendering to the temple & as stated in the Depy Commr's letter to the Chief Secy to the C & M Station, after obtaining infn regarding the money value of such services.

Camp
Narasimharajapur

[initials]
3/8/24

As. Bring up the reply

On account of illness I did not attend the office for about a week. Hence the paper remained unattended to.
[initials] 18.8.24.

NOTE—Contn. sheet

[initials] 7/8 [illegible]

G. R. S. III 2]

WD 2310—GPB—10 000—31-5-24

General and Revenue Secretariat. | File No. | of 19

Serial No.

DEWAN'S OFFICE,
RECD. on 18. AUG. 1924
Reg. No. 1276

Note—Conton. sheet.

G. R. S. III 2]

WD 2310—GPB—10,000—31 5 24

General and Revenue Secretariat.

File No. 211 of 1923.

Serial No

accepted.

The letter mg [illegible]

[illegible]

4 To the Govt to the Hon'ble the Resident in Mysore. No. pdc 207 d. 26.8.24. States that the proceedings of the Collector seem to require revision, and requests him to move the Hon'ble the Resident to quash the acquisition proceedings & to direct the issue of a notice to the Inamdar as required under Sec. 9. 41.(3) of the Land Acquisition Act of 1894 the passing of a fresh award under Sec. 11 after hearing both the parties in accordance with law.

NOTE—Conton. sheet

2560?

No. C 3407 [illegible] Office of the Muzrai Commissioner in Mysore.

one file.

Dated Bangalore, 8th February 1924.

969

Muzrai

REV. From

0 FEB 1924

K. Chandy, Esquire., B.A.,

Muzrai Commissioner in Mysore,

Bangalore.

To

Muz. 211-23-10

K. V. Anantaraman, Esquire., B.A.,

Secretary to the Government of

His Highness the Maharaja of Mysore,

Revenue Department.

Sir,

In submitting herewith correspondence ending with Bangalore --- District Deputy Commissioner's letter No.C.1140 of 23-23 dated the --

*1. Survey Nos. 104,105,106, 108, 110 & 112.
11. " " 111.

24th January 1924 relating to the acquisition by the -- Civil and Military Station authorities of the*marginally noted lands in the Neelasandra village which whole village has been endowed as Inam (Sarvamanya) to Sri Dharmarayaswami temple in Bangalore City, I have the honor to state as follows:--

2. The acquisition has been for the purpose of the construction of model houses for housing the poor and has taken place on two occasions. First, 22 acres 34 guntas were notified and then 1 acre and 5 guntas -- were again wanted. With regard to the former, the Collector's first intimation to the Deputy Commissioner was on 14th October 1922 when the Deputy Commissioner was asked to intimate the amount of compensation payable to the Inamdar for loss of revenue. After some correspondence the Deputy Commissioner replied on 26-9-23/6-10 claiming a compensation of Rs.24,572-4-1 ------ comprising items as -- noted in the margin. of the same date to --

1.Special fine at Rs.1000 per acre on 22 acres and 25 guntas.	Rs.22,625	0	0
2.Capitalised value of land Revenue at 25 times the assessment.	1,485	15	0
3.Statutory allowance for compulsory acquisition at 15 per cent on item No.2 supra	213	0	0
4.Rent in arrears.	248	5	1
Total.	Rs.24,572	4	1

ne sent a copy of this letter to this office and requested me to support the claim of the temple. The whole file was called for, which was received on 25th January 1924. Meantime the additional land, wanted, was notified by the Collector for acquisition. When the Amildar, Bangalore Taluk, attended and claimed Rs.1312-11-0 as per margin he was told by the Collector that the claim on this account would be dealt with along with those in respect of the lands first acquired.

1. Special fine at Rs.1000/- per acre on 1 acre and 5 guntas.	1125-0-0
2. Capitalised value of land Revenue at 25 times the assessment about (25 x 2) ..	50-0-0
3. Statutory allowance for compulsory acquisition at 15% on item No.2 ..	7-5-0
4. Rent in arrears. ..	125-6-0
Rs.	1312-11-0

3. From the records it is seen that with regard to the first acquisition the notice of the acquisition was not sent either to the Deputy Commissioner or to the Taluk Amildar but it is stated to have been served on the land, the first intimation having reached the Deputy Commissioner's hands three days after the day appointed for the award. The tenants of the temple lands, it appears, have already been given substantial compensation at Rs.500/- per acre for dry and Rs. 600/- for wet, the claim of the Inamdar being reserved for consideration later only in connection with loss of Revenue, vide, Collector's letter No.3131 dated 14th October 1922.

4. The Civil and Military Station authorities knew that the village was a Devadaya Sarvamanya inam endowed to Sri Dharmarayaswami temple and should therefore have ascertained the relation between the temple and the raiyats before making an award to any body making a claim. The temple's claim has been kept open but the raiyats' claims have been apparently satisfied, overlooking the fact that the two might very possibly conflict. It is not clear also how in acquisition proceedings in respect of the same land, claims could be disposed of, some before and some after.

5. The Deputy Commissioner's attitude that the raiyats being only occupancy tenants for agricultural purposes, the compensation awarded should have gone to the temple instead of to the raiyats (Vide his letter dated 25th September 1923 to the Collector) is correct and has to be supported before the Civil and Military ----

Military Station authorities. We will have to take copies of all orders already passed in the case and if these are found prejudicial to the temple, steps will have to be taken to have the matter referred to the Civil Courts in accordance with rules.

6. Meantime, I request that the Civil and Military Station authorities may be kindly moved to go into the matter and dispose of the same in accordance with rules at an early date. I make this request because the temple has been substantially prejudiced by the claims of the raiyats having been disposed of without the temple's just claim being considered.

7. In respect of the item of special fine of Rs.1000/- per acre claimed by the Deputy Commissioner, I ~~must~~ have to say that the expropriated person is not generally entitled to this. In these case, the Civil and Military Station Municipal Council get the benefit of the conversion of these agricultural lands into building sites. What they actually realise from this course may be ascertained from them. In the case of such conversion within an Inam village within the State, the benefit remains to the Inamdar. But in the present case the conversion being for town extension purposes by the Civil and Military Station Municipal Council within the Civil and Military Station limits - thelands being acquired at agricultural values - I think that this item when allowed should in properiety go to Government and not to the temple.

8. The matter being one of an urgent nature, I beg the favour of early orders of Government.

The entire records are submitted herewith for reference and kind return when no longer required.

I have the honor to be,
Sir,
Your most obedient servant,

K Muzrai Commissioner.

KSR.

C 340 of 23-4
25/1/24.

Office of the Deputy Commissioner,
Bangalore District,
Dated Bangalore, 22nd January 1924.

No. CC 1140 of 23-24

From

B. Venkoba Rao, Esq., B.A.,
Deputy Commissioner,
Bangalore District.

To

K. Chandy, Esq., B.A.,
Muzrai Commissioner in Mysore,
Bangalore.

25/1/24 Immediate

Sir,

With reference to your letter No.C.340 of 1923-24 dated 11th instant, calling for the entire records relating to the acquisition of certain lands in the Inam village of Neelasandra by the Civil and Military Station authorities, I have the honor to forward herewith the entire sus file of this office and to request that it may be -- kindly returned when no longer required. The Vernacular records received with your letter are also herewith returned.

I have the honor to be,
Sir,
Your most obedient servant,

For Deputy Commissioner,
Bangalore District.

PWC 893 &/ one

Mus 211-23 2

Enclosure to 22.3.24

To

The Secretary to the Hon'ble the Resident

in Mysore.

Sir,

In forwarding herewith an extract from letter No. C.340 dated 8-2-1924 from the Muzrai Commissioner in Mysore ~~to this Government~~ in the matter of the acquisition by the C. & M. Station authorities of certain Survey Numbers in the Neelasandra Village which is a Surva Manya Inam ~~to~~ belonging to the Sri Dharmarayaswami temple in Bangalore City, I am directed to state that the Muzrai Commissioner ~~points out~~ writes that the notice of the acquisition of the said properties was not sent either to the Deputy Commissioner or the Taluk Amildar on behalf of the temple before the passing of the award, but is stated to have been served on the land, and that the tenants of the temple lands have already been given compensation for the lands in question. The non-issue of notice to & this Mysore Government as the Managers of the Institution deprived them of an opportunity ~~lost an opportunity to Mysore Government~~ to press their claims for ~~the award~~ compensation. I am to point out that under Sec. 9 (4) of Act I of 1894 under which the acquisition proceedings have been taken, it seems to be obligatory on the part of the Acquisition Officer to issue a Notice to all persons interested in the Award. In this case the Government

of Mysore on behalf of the Inamdar temple have got an interest in the properties acquired and as such, the Notice should have been sent to the representatives of this Government before passing the Award.

2. As regards the compensation that has been paid ~~for the land~~, that question depends ~~upon~~ whether the tenants ~~are~~ ~~or~~ are tenants at will or Khadim tenants. It is only in the latter case that they can claim the compensation for their occupancy ~~rights~~. I am therefore to request that the Resident ~~in Mysore~~ may be moved to see that the claim of the temple is fully investigated and in case the compensation for the lands has been wrongly paid to the ~~occupants~~, arrangements may kindly be made to pay the temple its due share.

3. The other items of compensation claimed by the Muzrai Commissioner on behalf of the temple are quite reasonable and it is requested that arrangements may be made for the settlement of all the claims of the temple at a very early date.

I have &c.,

Revenue Secretary to Govt.

Pol 1434

R. O. 2. -R. P. B.—5--1922.—5,000

No. 3934 Enc. 2.
131-1903.

From

A. N. L. Cater, Esq., I.C.S.,
SECRETARY TO THE RESIDENT IN MYSORE.

Muz. 211 - 23 - 3.

14 MAY 1924 Muz.

SEC. SECRETARIAT 14 MAY 1924 BOMBAY

Dno 22209

To

The Secretary to the Government of
His Highness the Maharaja of Mysore,
Revenue Department.

Dated Bangalore, 14 May 1924.

Subject:—

Acquisition of certain Survey Numbers in the Nilsandra village, Civil and Military Station, Bangalore, for the construction of model houses for the poor.

Sir,

I am directed to reply to your letter No.Pol.893, dated the 22nd March 1924.

2. With reference to paragraph 1, I am to observe as follows:-

In the Resident's notification No.62, dated the 13th September 1922, published in the Mysore Residency Orders, the acquisition of Survey Numbers 104, 105, 106, 108, 110 and 112 was notified. On receipt of the notification, the Collector, Civil and Military Station, issued a notice under section 9 (3) of the Land Acquisition Act, 1894, to the persons named in paragraph 2 of the Notification. A copy of the notice was also published on the land under section 9 (1). The persons to whom notices were issued were reported to be the rightful owners of the lands. That the Inamdar would contest their title was not realised by the Collector at this stage of the proceedings. We believed that the Inamdar was entitled only to compensation for loss of revenue which he would accept without objection.

I am to express regret for the omission to inform the

Inamdar of the intended acquisition under section 9 (4) of the Act; but, in view of the facts, as explained above, the Inamdar cannot maintain that, because such a notice was not issued, he was unaware of the acquisition proceedings. That the land was going to be acquired was notified in the Residency Orders, and a notice was published on the land. This latter notice, as the Government of Mysore are aware, is intended for all persons interested in the land; and instances have not been wanting in which persons not served with individual notices under section 9 (3) have appeared before the Collector and advanced their claims in response to the general notice published on the land.

For these reasons, the Resident considers that the omission to issue a special notice to the Inamdar provides no sufficient cause to render the proceedings inoperative.

3. As regards the claim for compensation made in respect of Survey Numbers 104, 105, 106, 108, 110 and 112, amounting to Rs.24,572-4-1, of which the particulars are as noted in the margin, I am to communicate the following remarks.

* (1) Special fine at Rs.1000 per acre on 22 acres and 25 guntas. .. 22

(2) Capitalised value of Land Revenue at 25 times the assessment. 1485 15 0

(3) Statutory allowance for compulsory acquisition at 15% on item No.(2). 213 0 0

(4) Rent in arrears. 248 5 1

24572 4 1

Item (1). The claim is, apparently, under section 63 (3) of the Mysore Land Revenue Code and the Mysore Government's Notification No.5627/L.R.64-04-5, dated the 27th December 1904, printed at page 21 of the Mysore Land Revenue Rules. The land acquired is in Nilsandra village within the Civil and Military Station of Bangalore. The Mysore Laws and Regulations under which the claim is made are not applicable to the Station. Further, the fine of Rs.1,000/- per acre can be levied only in the areas mentioned in the schedule attached to the Mysore Government's Notification. Section XXXV of Bombay Act I of 1865, and the rules made thereunder, are applicable to Nilsandra village. They provide for fines ranging from Rs.25 to Rs.100 for the conversion by occupants, of agricultural lands for purposes other than agriculture, but they do not prescribe a penalty for the conversion of such lands for town improvement by the Government or a Municipality.

Item (4). The arrears are due by the occupants of lands and it is but fair that they be recovered from them.

Item (2) This is admitted.

Item (3). The correct amount is Rs.222-14-3, which is also admitted.

In the result, the Inamdar will be entitled to Rs.1,708-13-

4. The Deputy Commissioner contends that, as the raiyats are occupancy tenants for agricultural purposes, the compensation awarded should have gone to the temple instead of to the raiyats. But these raiyats have been in uninterrupted possession of the lands from time immemorial, i.e., long before the village was endowed as Inam. Under section XXXVI of Bombay Act I of 1865, which is applicable to Nilsandra village, the right of occupancy is conditional on payment of the assessment and is declared to be a transferable and a heritable property and to be continuable without question at the expiration of a settlement lease on the occupants consenting to a revised rate. The Survey and Settlement of Nilsandra took place a few years ago and the raiyats, having agreed to pay the revised assessment, have acquired a heritable and transferable right.

Again, in paragraph 2 of your letter, it is said:- "As regards the compensation that has to be paid to the tenants it has to be considered whether the tenants are tenants at will or Kadim tenants. It is only in the latter case that they can claim the compensation for their occupancy rights". In paragraph 1 of the Deputy Commissioner's letter No.O.C.1140 of 22-23 dated the 16th May 1923 (extract enclosed), it is stated that the holders of these lands were Kadim tenants. It follows, therefore, that they are entitled to compensation for their occupancy rights. In these circumstances it seems that the occupants of these lands have a valid claim to the amount awarded as compensation and that the Inamdar is entitled to be compensated only for loss of revenue.

5. In communicating the above views, I am to inquire whether the Mysore Government have any further remarks to offer. The favour of an early reply is requested, as acquisition proceedings

in respect of a further area of 1 acre and 5 guntas of similar lands (Survey No.111) are pending.

I have the honour to be,

Sir,

Your most obedient servant,

SECRETARY TO THE RESIDENT.

M.V.R.

No. 62, dated Bangalore, the 13th September 1922.

Whereas it appears to the Hon'ble the Resident in Mysore that land is required for a public purpose, namely, for constructing model houses by the Municipal Commission for housing the poor:

It is hereby declared that the undermentioned land is required for the said purpose.

This declaration is made under the provisions of section 6 of Act I of 1894 as applied to the Civil and Military Station of Bangalore, and under section 7 of the said Act, the Collector of the Civil and Military Station is hereby directed to take order for the acquisition of the said land.

SPECIFICATION OF LAND.

Where situated	Name of owner	Description of land	Area	Boundaries				Remarks
				North	East	South	West	
Suvamanya-Inam Village of Nilsandra, Civil and Military Station, Bangalore.	Ramanujam Mudr. Chinnasawmy Mudr. Damodara Mudr. Venkatachella Mudr. Venkatasubba Mudr.	Survey No 112 Dry	A. G. 4 28	Survey No. 110	Channel	Survey No 113	S. No. 110 and 111	Vide plan in the Collector's Office.
	Ramanujam Mudr. Venkatachala Mudr. Chinnasawmy Mudr	Survey No. 110 Dry	A. G. 5 7	Road to Ooked-palaya	Channel	S. No. 111 and 112	Road to Nilsandra.	
	Lakshmandoss alias Curley	Survey No. 108 Garden	A. G. 2 26	Road	Nalla	S. No. 105 and 106	Main sewer.	
	Do	Survey No. 106 Dry	A. G. 1 37	Survey No. 108	Nalla	S. No. 104	S. No. 105	
	Chinnasawmy Mudr. Damodara Mudr. Ramanujam Mudr.	Survey No 105 Dry	A G. 3 39	Survey No. 108	Survey Nos 106 and 105	S -No. 101	Main sewer	
	Lakshmandoss alias Curley	Survey No 104 Wet	A, G 1 2	Survey No. 106	Nalla	S. No. 102 and 103	S. No. 105	
		Dry	A. G. 3 30					

C. T. C. PLOWDEN, MAJOR,
Secretary to the Resident.

~~Printed at the Mysore Residency Press, Bangalore.—15-9-1922.~~

☞ Separate paging is given to the Parts in order that they may be filed as distinct compilations.

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PART I.

Notifications by the Government of India and the Hon'ble the Resident in Mysore.

The Hon'ble the Resident in Mysore.

Notifications.

No. 60, dated Bangalore, the 31st August 1922.

Whereas under the Resident's Notification No. 54, dated the 26th September 1917, the term of office of Rao Sahib B. V. Venkataswamy Naidu as a Special Magistrate and a member of the Bench of Magistrates for the Civil and Military Station of Bangalore expires on the 13th September 1922 :

In exercise of the authority conferred by sections 14 and 15 of the Code of Criminal Procedure (Act V of 1898), as applied to the said Station, and with reference to the Resident's Notification No. 3647-350-90, dated the 3rd November 1890, the Hon'ble the Resident is pleased to reappoint Rao Sahib B. V. Venkataswamy Naidu to be a Special Magistrate and a member of the Bench of Magistrates with effect from the 14th September 1922.

Extract from the Bangalore District Deputy Commissioner's letter No.O.C.1140 of 22-23 dated 16th May 1923 to the Collector, Civil and Military - Station, Bangalore. 3/24.

With reference to the correspondence ending with your letter No.Ref.6369/33-22 of the 11th instant, regarding the amount of compensation -- payable to the Inamdar of Neelsandra Village for the acquisition of survey Nos.110, 112, 108, 106, 105 and 104 of that village, I have the honour to state that the holders of the lands were not only 'Kadim tenants' paying rent to the Inamdar, i.e., Dharmaraya Swami Temple, but were also rendering some personal service therein.

x x x x x

" COPY "

REGISTRAR, RESIDENT'S OFFICE.

M.V.R.

Pol 207 D 26/8/24.

Memo. 21-

To

The Secretary to the
Hon'ble the Resident in Mysore.

Sir,

I am directed to acknowledge the receipt of your letter No.3934-13 of 1923 dated 14-5-1924 regarding the acquisition of certain Survey numbers in the Inam Neelasandr village for building purposes and to state that the non-service of notice on the Inamdar either before passing the award, or after it and before payment, are factors which vitiate the whole proceedings. The vesting of the land in the Govt. under Sec. 16 of the Land Acquisition Act of 1894 will take place only when there has been a substantial compliance with the provisions of the Act. Under Sec. 9 cl. (iii) of the same Act the Collector should serve a notice on all such persons as are known or believed to be interested in the land to be acquired. The issue of a notice under Cl. (iii) of Sec. 9 is compulsory and the mere publication of a notice under Cl.(1) on the land will not be sufficient. It is admitted that the Collector knew that the village was an Inam village belonging to the temple. When notice has not been served upon the person who is known to be interested in the acquisition, there has not been a substantial compliance with the provisions of the Act and the non-service would vitiate the proceedings and invalidate the absolute title which the Govt. acquires under Sec. 16.

2. Again under Sec. 12 Cl.2, the Collector is bound to give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award was passed. In the present case no such notice was served on the Inamdar after the award was made. This is an important circumstance, for under Sec. 18 Cl. 2, the element of notice is an essential ingredient of the two alternative periods mentioned in that Section within which the owner of the property acquired may exercise his right to have a reference made to the Civil Court. The conditions imposed by Sec. 18 must be strictly observed, for on their observance depends the right of a party to have a reference made to the Court, the power of the Collector to make one and the jurisdiction of the Court to entertain it. In this case, the failure to give notice under Sec. 12 (2) deprived the Inamdar of his right under Sec. 18 to ask for a reference being made to the Civil Court.

3. As regards the question of Kadim tenancy of the tenants, the Collector seems to have presumed it and passed an award without any enquiry whatsoever. Under Sec. 11 the Collector has to apportion the compensation among all the persons known to be interested in the land. If the persons interested do not agree, the Collector may either decide the question himself under this Section or refer it to the decision of the Court under Sec. 30. In this case, when the Inamdar was not given a chance of putting forward his claim, the Collector had no opportunity to decide whether the tenants were Kadim tenants or not.

not. It may be observed here that the questic of Kadim tenancy is an extremely intricate and complex one and requires careful investigation. The onus lies heavily on the tenants to prove it. The Mysore Government consider that the Collector's action in awarding compensation solely to the ryots show little regard to the interests of the Inamdar. The statement of the Deputy Commissioner in one of his letters, referred to in the letter under advertence cannot be binding on the Inamdar, and the Deputy Commissioner himself has changed his position in his subsequent correspondence.

79. R1 (in Vern. records).

R1

4. As regards the items of compensation disallowed in para. 3 of your letter, I am to state that as no notice was given to the Deputy Commissioner he was denied the opportunity of getting the rent due from the tenants adjusted out of the compensation payable to the ryots. Further, Sec. 35 of the Act of 1865, referred to in your letter in respect of the special fine, applies only to Government lands and not to Inam lands such as those under reference. In the case of these Inam lands the tenants had only the right of using the land for agricultural purposes and if they wanted to convert them to any other purpose the approval of the Inamdar would be necessary and the grant of further rights in respect of the land would involve the payment of a proper consideration. The compensation suggested to be paid to the Inamdar is quite inadequate.

(Put up) 2

5. In these circumstances, I am to state that the proceedings of the Collector are in- to refer accordingly valid

invalid, that no absolute title has been vested in Govt. under Sec. 16, and that the right of the Inamdar to have the question of apportionment adjudged in a Court of law still exists. I am accordingly to request that you will be so good as to move the Hon'ble the Resident to quash the acquisition proceedings and direct the issue of a notice to the Inamdar as required under Sec. 9 Cl.(3) and the passing of a ~~first~~ fresh award under Sec. 11 after hearing both the parties in accordance with law.

I have &c.,

Revenue Secretary to Govt.